

M. GALE LEMMON #4363
Assistant Attorney General
MARK L. SHURTLEFF #4666
Attorney General
Attorneys for Utah Insurance Department
160 East 300 South, Fifth Floor
P.O. Box 140874
Salt Lake City, UT 84114-0874
Telephone: 801.366.0375

BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF UTAH

COMPLAINANT:

UTAH INSURANCE DEPARTMENT

RESPONDENT:

AMERICA LATINA INSURANCE
SERVICES

License No. 237064

MARGARITA MADRIZ,

License No. 234426

3535 South 4400 West
West Valley City, UT 84120

STIPULATION AND ORDER

Docket No. 2011-192 PC

Enf. Case No. 2950

STIPULATION

1. Respondent, America Latina Insurance Services is a licensed resident insurance agency in the State of Utah, holding license number 237064. Respondent Margarits Madriz is a licensed resident insurance producer in the State of Utah, holding license number 234426, and is the owner of Respondent America Latina Insurance Services.

2. Respondents stipulate with the Complainant, Utah Insurance Department, as follows:

- a. If a hearing were held, witnesses called by the Complainant could offer and introduce evidence that would support the Findings of Fact herein;
- b. Respondents admit the Findings of Fact and Conclusions made therefrom;
- c. Respondents stipulate to the summary entry of the Order herein which shall be in lieu of other administrative proceedings by Complainant in this matter; and
- d. Respondents and Complainant have negotiated the terms of the Order entered herein and Respondents agrees to its entry and further agree to be bound by all its terms.

3. Respondents are aware of their right to a hearing at which they may be represented by counsel, present evidence and cross-examine witnesses. Respondents have irrevocably waived their right to such hearing and to any appeal related thereto.

4. Respondents admit the jurisdiction of the State of Utah Insurance Commissioner as to all matters herein.

5. Respondents are acting herein free from any duress or coercion of any kind or nature, having been advised fully as to their rights set forth herein.

6. Respondents acknowledge that the issuance of this Order by the Commissioner is

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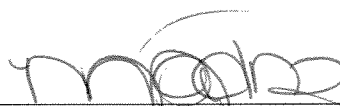
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solely for purpose of disposition of the matter entitled herein.

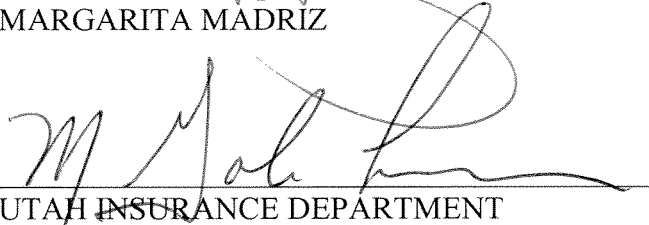
DATED this 19th day of September, 2011.



AMERICA LATINA INSURANCE SERVICES
Margarita Madriz, Owner



MARGARITA MADRIZ



UTAH INSURANCE DEPARTMENT
M. Gale Lemmon
Assistant Attorney General

Based upon the foregoing Stipulation and information in the file, the Presiding Officer makes the following Findings of Fact:

FINDINGS OF FACT

1. On October 28, 2010, a Department examiner made an agency visit to Respondents' office, and met briefly with the owner, Ms. Madriz, informing her he would be requesting information such as trust and operating account information.

2. During the visit, the examiner noticed signage on the wall entitled "Fee Notices" listing various fees charged by the Respondents

3. On November 1, 2010, at the Request of the Examiner, Respondents faxed to the examiner the October 2010 agency trust account statement which revealed several transfers back and forth between the trust account and the operating account.

4. On the same date, Respondents also faxed a "Broker Agreement" indicating an "estimated cost of a fee of \$30" for each non-assigned risk policy and a letter size sheet with a \$10 fee disclosure.

5. On November 15, 2010, at the Examiner's request, the Respondents faxed a copy of the October 2010 operating account statement which confirmed that transfers of trust funds were made between the operating and trust accounts.

6. On November 29, 2010, Ms Madriz emailed to the examiner a signed statement regarding the transfers of funds between the operating and trust accounts, stating she sometimes deposited monies into the wrong account if she could not make it to the bank on a given day and would later transfer the funds to the appropriate account. She also detailed the fees charged by her to include a \$30 service fee for new business, rewrite fees of between \$20 - \$30, and an

endorsement fee of \$10 to add a new vehicle or driver to a policy.

7. The examiner subsequently requested and received from Ms. Madriz a list of all fees collected during the period 5/1/2010 through 5/1/2011. The fees collected during that 12 month period totaled \$4,270.00. The list indicated that the fees charged for the same service(s) were not always uniform.

8. The examiner requested a statement as to how fees were disclosed to Respondents' clients. Ms Madriz responded that the service fee for new business is disclosed on a form, and the other fees are disclosed via signage in the office.

9. In 2007, the Department had instructed Ms. Madriz to ensure she obtained a customer signature on a written fee disclosure form for all fees charged. Although she failed to correct the problem, she stated that she believed the form she was using was compliant.

10. On June 25, 2011, Ms. Madriz stated that she would no longer charge new policy service fees, rewrite fees and endorsement fees.

11. Respondent Madriz was fully cooperative during the investigation, and timely provided all requested information. Respondents have agreed to a forfeiture of \$2000 plus an additional forfeiture of twice the amount of the fees collected, with one half of that amount being staying pending successful completion of 24 months probation.

Based upon the foregoing Stipulation and Findings of Fact, the Presiding Officer enters the following Conclusions of Law:

CONCLUSIONS OF LAW

1. Utah Code Ann. § 31A-23a-409 addresses trust obligation for monies collected.

(1) (a) Subject to Subsection (7), a licensee is a trustee for money received or collected for forwarding to insurers or to insureds.

(b) (i) Except as provided in Subsection (1)(b)(ii), a licensee may not commingle trust funds with:

(A) the licensee's own money; or

(B) money held in any other capacity.

(ii) This Subsection (1)(b) does not apply to:

(A) amounts necessary to pay bank charges; and

(B) money paid by insureds and belonging in part to the licensee as a fee or commission.

(c) Except as provided under Subsection (4), a licensee owes to insureds and insurers the fiduciary duties of a trustee with respect to money to be forwarded to insurers or insureds through the licensee.

(d) (i) Unless money is sent to the appropriate payee by the close of the next business day after their receipt, the licensee shall deposit them in an account authorized under Subsection (2).

(ii) Money deposited under this Subsection (1)(d) shall remain in an account authorized under Subsection (2) until sent to the appropriate payee.

2. Respondents violated this provision when they transferred trust funds between the operating and trust accounts.

3. Utah Code Ann. § 31A-23a-501 states in part:

(2) A licensee may receive from an insured or from a person purchasing an insurance policy, noncommission compensation if the noncommission compensation is stated on a separate, written disclosure.

(a) The disclosure required by this Subsection (2) shall:

(i) include the signature of the insured or prospective insured acknowledging the noncommission compensation;

(ii) clearly specify the amount or extent of the noncommission compensation....

(b) Noncommission compensation shall be:

(i) limited to actual or reasonable expenses incurred for services and

(ii) uniformly applied to all insureds or prospective insureds in a class or classes of business or for a specific service or services.

(c) A copy of the signed disclosure required by this Subsection (2) must be maintained by any licensee who collects or receives the noncommission compensation or any portion of the noncommission compensation.

4. Respondents violated the above by failing to uniformly apply fee charges, by charging fees for services for which Respondents received a commission, and by failing to obtain customer signatures on a written disclosure.

Based upon the foregoing Stipulation, Findings of Fact and Conclusions of Law, the Presiding Officer herewith enters the following Order:

ORDER

IT IS HEREBY ORDERED:

1. Respondents America Latina Insurance Services and Margarita Madriz are hereby jointly and severally assessed an administrative forfeiture of \$2,000.00 for violations of the Utah Insurance Code and an additional violation of twice the profit gained from violation of the Utah Insurance Code, in the amount of \$8,540.00. The sum of \$4,270.00 is hereby stayed pending successful completion of the probation imposed herein.

2. Respondents' insurance licenses are placed on probation for a period of 24 months beginning with the date of this Order. The terms of the probation are:

a. Respondents shall pay the portion of the forfeitures assessed that have not been stayed, the sum of \$6,270.00 in three equal monthly payments as follows:

\$2,090.00 to be paid to the Department within 60 days of the date of this Order,
\$2,090.00 to be paid to the Department within 120 days of the date of this Order,
\$2,090.00 to be paid to the Department within 180 days of the date of this Order; and

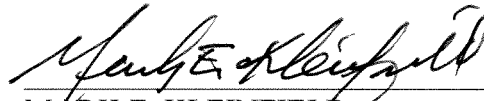
b. Respondents shall have no further violations of the Utah Insurance Code, Department Rules or of any order by the Commissioner.

3. If the terms of probation are not adhered to, the total forfeiture amount, including the

stayed portion, becomes immediately due and payable.

DATED this 22nd day of September, 2011.

NEAL T. GOOCH
Insurance Commissioner



MARK E. KLEINFELD
Administrative Law Judge
Utah Insurance Department
State Office Building Room 3110
Salt Lake City, UT 84114
Telephone 801-538-3800

NOTIFICATION

You are hereby notified that a failure to obey an Order of Commissioner may subject you to further penalties, including forfeitures of up to \$5,000 per violation for the agency and of up to \$2,500 for an individual licensee, and the suspension or revocation of your licenses and the filing of an action in district court, which may impose forfeitures of up to \$10,000 per day for continued violation.

You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.